

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM DECKARD, SR.,
Plaintiff,

v.

**STEVEN EMORY, Executor of Estate of
Kathleen Emory (Deceased),
STEVEN EMORY,
CITIZENS BANK,
WORLDPAY,
PENN NATIONAL MUTUAL CASUALTY
INSURANCE COMPANY,
MICHAEL DANELLO, Agent, Penn
National Mutual Casualty Insurance
Company,
ACLAIM ADJUSTMENT AGENCY INC.,
GEORGE PAGANO, Agent,
JANE'S AND JOHN'S DOE 1 THROUGH
18, and
SOLE PROPRIETORSHIP('S),
PARTNERSHIP('S), CORPORATION('S),
LLC('S), LLP('S) 1 THROUGH 15,
Defendants.**

CIVIL ACTION

NO. 17-5182

WILLIAM DECKARD, SR.,
Plaintiff,

v.

**STEVEN EMORY,
ESTATE OF KATHLEEN EMORY
(Deceased), Steven Emory, Executor,
DREW SALAMAN, ESQUIRE,
DAVID GRUNFELD, ESQUIRE,
LINDA HEE, ESQUIRE,
DANIEL DUGAN,
JANE'S AND JOHN'S DOE 1 THROUGH
18, and
SOLE PROPRIETORSHIP('S),
PARTNERSHIP('S), CORPORATION('S),
LLC('S), LLP('S) 1 THROUGH 15,
Defendants.**

CIVIL ACTION

NO. 19-2001

ORDER

AND NOW, this 13th day of July, 2020, upon consideration of Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint (Case No. 17-5182, Doc. No. 13, filed April 22, 2019); Defendant Citizens Bank, N.A.'s Motion to Dismiss (Case No. 17-5182, Doc. No. 27, filed May 3, 2019); Defendant Worldpay's Motion to Dismiss (Case No. 17-5182, Doc. No. 40, filed May 23, 2019); Plaintiff's Response to Motion to Dismiss Collectively Filed by Defendants Pennsylvania National Mutual Casualty Insurance Company, Penn National Security Insurance Company and Michael Danilla (Case No. 17-5182, Doc. No. 46, filed June 3, 2019); Plaintiff's Response to Defendant Citizens Bank, N.A.'s Motion to Dismiss (Case No. 17-5182, Doc. No. 47, filed June 4, 2019); The Aclaim Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint (Case No. 17-5182, Doc. No. 48, filed June 7, 2019); Plaintiff's Response to Defendant Worldpay's Motion to Dismiss (Case No. 17-5182, Doc. No. 50, filed June 14, 2020); Plaintiff's Response to Defendants Aclaim Adjustment Agency Inc and George Pagano Motion to Dismiss (Case No. 17-5182, Doc. No. 53, filed July 14, 2019); The Aclaim Defendants' Reply in Support of Motion to Dismiss Plaintiff's Second Amended Complaint (Case No. 17-5182, Doc. No. 57, filed July 24, 2019); Sur Reply to Aclaim Defendants' 7-24-19 Filing (Case No. 17-5182, Doc. No. 60, filed August 2, 2019); Plaintiff's: (A) Supplemental Sur Reply to Aclaim Defendants' 7-24-19 Filing in Support of These Defendants' 7-24-19 Filing in Support of These Defendants' Motion to Dismiss and (B) Petition for Leave to Amend Plaintiff's Complaint (Case No. 17-5182, Doc. No. 64, filed August 14, 2019);¹ Motion to Dismiss Amended Complaint (Case No. 19-2001, Doc. No. 24, filed September 24, 2019); Plaintiff's Response to Defendant Drew Salaman Esquire's Motion to Dismiss (Case No. 19-2001, Doc. No. 28, filed October 21, 2019); Motion to Dismiss the First

¹ To the extent that plaintiff's filing dated August 14, 2019 requested leave to amend the 2nd Amended Complaint, it was denied by Order dated August 16, 2019 (Doc. No. 66).

Amended Complaint (Case No. 19-2001, Doc. No. 29, filed November 5, 2019); Motion to Dismiss First Amended Complaint (Case No. 19-2001, Doc. No. 31, filed November 18, 2019); Motion for Extension of Time to File Replies to Defendant's Dugan's and Grunfeld's FRCP Rule 12(b)(6) Motions to Dismiss (Case No. 19-2001, Doc. Nos. 34 & 35, filed December 30, 2019); Opposition of Daniel J. Dugan to Plaintiff's Motions for Extension of Time to Respond to the Motion to Dismiss (Case No. 19-2001, Doc. No. 36, filed December 31, 2019); Opposition of David Grunfeld, Esquire to Plaintiff's Motions for Extension of Time to Respond to the Motion to Dismiss (Case No. 19-2001, Doc. No. 37, filed January 6, 2020); and Plaintiff's Response to Defendant's Daniel Dugan, Esquire's and David Grunfeld, Esquire's Motions to Dismiss (Case No. 19-2001, Doc. No. 38, filed January 8, 2020); for the reasons stated in the Memorandum dated July 13, 2020, **IT IS**

ORDERED as follows:

1. Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint (Case No. 17-5182, Doc. No. 13) is **GRANTED**. All claims against defendants Pennsylvania National Mutual Casualty Insurance Company, Michael Danilla,² and Penn National Security Insurance Company in the 2nd Amended Complaint (Case No. 17-5182) are **DISMISSED WITH PREJUDICE**.
2. Defendant Citizens Bank, N.A.'s Motion to Dismiss (Case No. 17-5182, Doc. No. 27) is **GRANTED**. All claims against defendant Citizens Bank in the 2nd Amended Complaint (Case No. 17-5182) are **DISMISSED WITH PREJUDICE**.
3. Defendant Worldpay's Motion to Dismiss (Case No. 17-5182, Doc. No. 40) is **GRANTED**. All claims against defendant Worldpay in the 2nd Amended Complaint (Case No. 17-5182) are **DISMISSED WITHOUT PREJUDICE** to plaintiff's right to file such claims in the proper venue.

² Defendants are incorrectly identified in the 2nd Amended Complaint as "Penn National Mutual Casualty Insurance Company" and "Michael Danello." Penn Nat'l Defs.' Mot. Dismiss 1; Pl.'s Resp. Penn Nat'l Defs.' Mot. Dismiss 1-2.

4. The Aclaim Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint (Case No. 17-5182, Doc. No. 48) is **GRANTED**. All claims against defendants Aclaim Adjustment Agency, Inc. and George Pagano in the 2nd Amended Complaint (Case No. 17-5182) are **DISMISSED WITH PREJUDICE**.

5. Plaintiff's Motion for Extension of Time to File Replies to Defendant's Dugan's and Grunfeld's FRCP Rule 12(b)(6) Motions to Dismiss (Case No. 19-2001, Doc. Nos. 34 & 35) is **GRANTED**. Plaintiff's Response to Defendant's Daniel Dugan, Esquire's and David Grunfeld, Esquire's Motions to Dismiss (Case No. 19-2001, Doc. No. 38) is deemed timely filed as of January 8, 2020.

6. Defendant Drew Salaman's Motion to Dismiss Amended Complaint (Case No. 19-2001, Doc. No. 24) is **GRANTED**. All claims against defendant Drew Salaman in the 1st Amended Complaint (Case No. 19-2001) are **DISMISSED WITH PREJUDICE**.

7. Defendant Daniel Dugan's Motion to Dismiss the First Amended Complaint (Case No. 19-2001, Doc. No. 29) is **GRANTED**. All claims against defendant Daniel Dugan in the 1st Amended Complaint (Case No. 19-2001) are **DISMISSED WITH PREJUDICE**.

8. Defendant David Grunfeld's Motion to Dismiss First Amended Complaint (Case No. 19-2001, Doc. No. 31) is **GRANTED**. All claims against defendant David Grunfeld in the 1st Amended Complaint (Case No. 19-2001) are **DISMISSED WITH PREJUDICE**.

9. The caption of Civil Action No. 17-5182 shall be **AMENDED TO REMOVE** Pennsylvania National Mutual Casualty Insurance Company (incorrectly identified in the 2nd Amended Complaint as "Penn National Mutual Casualty Insurance Company"), Michael Danilla (incorrectly identified in the 2nd Amended Complaint as "Michael Danello"), Penn National Security Insurance Company, Citizens Bank, Worldpay, Aclaim Adjustment Agency, Inc., and George Pagano as defendants.

10. The caption of Civil Action No. 19-2001 shall be **AMENDED** to **REMOVE** Drew Salaman, Daniel Dugan, and David Grunfeld as defendants.

IT IS FURTHER ORDERED that a Preliminary Pretrial Conference will be scheduled in due course with respect to plaintiff's remaining claims—those asserted against defendants Steven Emory, individually, and Steven Emory, Executor of the Estate of Kathleen Emory, in Civil Action Nos. 17-5182 and 19-2001 and those asserted against defendant Linda Hee in Civil Action No. 19-2001. Discovery may proceed in the interim.

BY THE COURT:

/s/ **Hon. Jan E. DuBois**

DuBOIS, JAN E., J.